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COMMISSION ON HUMAN RIGHTS

Fifty-fourth session

SUMMARY RECORD OF THE 30th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 3 April 1998, at 10 a.m.

Chairman:	Mr. SELEBI	(South Africa)
later:	Mr. CHOWDHURY (Vice-Chairman)	(Bangladesh)
later:	Mr. SELEBI (Chairman)	(South Africa)

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(a) TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT;

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STATEMENT BY THE VICE-MINISTER FOR FOREIGN AFFAIRS OF CHILE

The meeting was called to order at 10.a.m.

DRAFTING OF A DECLARATION ON THE RIGHT AND RESPONSIBILITY OF INDIVIDUALS, GROUPS AND ORGANS OF SOCIETY TO PROMOTE AND PROTECT UNIVERSALLY RECOGNIZED HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS (agenda item 19) (continued) (E/CN.4/1998/98)

1. Mr. CASTRO GRANDE (El Salvador) said that, while the State had the responsibility and the duty to guarantee, promote and protect human rights and fundamental freedoms, it was generally recognized that individuals, groups and organs of society also shared that responsibility and played an important role in monitoring respect for those rights. It was fitting that, after 13 years of hard work, the draft declaration on human rights defenders should be ready for consideration in the year of the fiftieth anniversary of the Universal Declaration of Human Rights. The text of the draft declaration was not perfect, and it would not resolve all the problems faced by human rights defenders, but it was a collective expression of the will of the international community.

2. Mr. HASHMI (Pakistan) said that human rights defenders performed a difficult task in difficult circumstances, frequently facing a real threat to their safety and that of their loved ones. Since their profession offered little financial reward, idealism was the only thing that sustained them. They wanted to make the world a better place where the rights of all individuals and peoples were protected and where justice prevailed.

3. There were roughly 10,000 non-governmental organizations (NGOs) in his country, engaged in valuable work at the grass-roots level. Their activities covered the entire gamut of the nation's existence, from schools to child labour, the emancipation of women and defending civil and political rights. Many of those organizations received funding from abroad.

4. Unfortunately, however, some NGOs attending the Commission's session made a point of attacking a single country under any and every pretext, ignoring gross and systematic human rights violations perpetrated by the occupation forces of their mentors. Such organizations had no place among genuine human rights defenders. The attributes of honesty, objectivity and truthfulness were as desirable in an organization as they were in individuals.

5. His delegation urged the speedy adoption of the declaration, bearing in mind the fact that it was but the first step in ensuring the rights of human rights defenders. In the meantime, it urged the Commission to continue to ensure the widest possible participation of NGOs in its deliberations and to take care that the rationalization of its work did not mean the elimination of NGOs.

6. Mr. FARRELL (Observer for New Zealand) said that human rights defenders were at the forefront of efforts to promote and protect human rights throughout the world, speaking and acting for those who had no voice and helping those seeking fairness and justice. His delegation had participated actively in the difficult negotiations which had culminated in the draft

declaration before the Commission. The last session of the Working Group had been notable for the atmosphere of constructive cooperation which had made it possible for the remaining issues to be resolved.

7. The draft declaration set new international standards for the protection of human rights defenders and imposed political and moral obligations on States to uphold human rights principles. It was a foundation for further progress in establishing a productive interface between human rights defenders, States and the international community and his delegation looked forward to seeing it adopted by acclamation at the forthcoming session of the General Assembly.

8. Mr. OSAH (Observer for Nigeria) said that, although it was gratifying that the Working Group had managed to achieve consensus on the draft declaration on human rights defenders, it was noteworthy that the compromise text was unsatisfactory in some respects.

9. His Government was contending with some political activists who, ostensibly dedicated to the cause of human rights, were in fact serving their own interests. It had protested about a fund of three million dollars, ostensibly for poverty alleviation, which was designed to support anti-government activities. Since it was surely not the Commission's intention to legitimize activities to undermine national peace and security, his delegation thought that human rights defenders should have been clearly defined in the text of the draft declaration so as to exclude elements acting against the interests of the State.

10. Draft article 3 arbitrarily subordinated domestic law to the international human rights obligations of States, while draft article 13 legitimized external funding for the activities of human rights defenders, without any recognition of the possible use of such funds for other purposes, such as organized economic sabotage. The draft declaration should strike a reasonable balance between the rights and responsibilities of the human rights defenders, who must carry out their activities without endangering national peace and security.

11. Mr. NAVIKAS (Observer for Lithuania) having endorsed the statement by the spokesman for the European Union, said that it was difficult to overestimate the importance of the draft declaration on human rights defenders or the quality of the work done by the Working Group over a sustained period of time. He paid tribute to all the human rights defenders who had not given up the fight, even in an apparently hopeless situation, and had sacrificed their time and sometimes their lives for the good of the international community.

12. Mr. VIGNY (Observer for Switzerland) said that civil society was the driving force of democracy, the rule of law and respect for human rights and thus the counterweight to the arbitrary power of the State. A civil society worthy of the name was made up of free trade unions, a free press, independent religious institutions and human rights defenders. Such defenders played a key role as the representatives of those without a voice, whose rights were violated by the State or not sufficiently protected.

13. For those reasons, his delegation welcomed the draft declaration on human rights defenders, adoption of which would prove that the international community recognized the vital role played by them in the implementation of the Universal Declaration and the international instruments it had inspired. Its adoption would also give a clear political signal that human rights defenders must be protected.

14. Ms. SHAHINIAN (International Service for Human Rights), speaking also on behalf of 58 other non-governmental organizations,* said that national human rights defenders in the field were risking their lives to monitor and promote implementation of the basic standards of human rights and fundamental freedoms. Their work was indispensable to the functioning of numerous United Nations mechanisms and, if minimum standards of human rights were to be respected, their work must be safeguarded. They were often the first target of State policies of surveillance, arbitrary detention and extrajudicial killing, and their families frequently became secondary targets of State repression. To make matters worse, they were often subject to heightened harassment by the State and its agents as a result of contacting or communicating with United Nations human rights mechanisms. Individuals had been ill-treated and even killed after giving information to visiting special rapporteurs and United Nations working groups. Individuals were also often subjected to increased government surveillance and harassment during and after they returned from United Nations meetings, such as the current session of the Commission on Human Rights. For several years, the reports of the Secretary-General on cooperation with representatives of United Nations human rights bodies had attested to the problem of systematic attacks on human rights defenders, and such cases represented only a tiny fraction of those dealt with every day by NGOs. When the work and lives of human rights defenders were subject to such dangers, the human rights of all people were seriously threatened.

15. Thirteen years previously, the Commission had first mandated the Working Group to draft a declaration to promote and protect the rights of human rights defenders; in the intervening years their situation had deteriorated, and human rights defenders around the world thus welcomed the completion of the draft declaration. The organizations on behalf of which she was speaking commended the Chairman of the Working Group for his patience and commitment.

16. The draft declaration represented the bare minimum, and was not the text which human rights defenders would themselves have drafted, although NGOs had played a crucial role in monitoring the drafting process and relating it to the hard realities on the ground. Nevertheless, she urged States to approve the draft declaration without further delay and to submit it to the Economic and Social Council for final adoption by the General Assembly at its next session.

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* The list of non-governmental organizations concerned appears as an annex to this summary record.

17. The draft declaration on its own would be an insufficient means of protection if it was not implemented at the national level, so the Commission must monitor progress in its implementation. Accordingly, the Commission should retain the protection of human rights defenders as a separate and specific agenda item under which it would receive information, through a report by the Secretary-General, on the situation of human rights defenders and on the measures taken by States to conform to the standards in the draft declaration. The most effective mechanism for the Commission to monitor, act and report on the difficulties faced by human rights defenders throughout the world would be the appointment of a new thematic special rapporteur on human rights defenders, and she took the opportunity to reiterate the request that the Commission should consider that proposal.

18. States had the primary responsibility for implementing human rights instruments, while it was for the United Nations, and particularly the Office of the High Commissioner for Human Rights, to ensure that implementation of the draft declaration was addressed across the entire United Nations system. NGOs remained ready to support effective measures by States and by the United Nations to implement the draft declaration in full.

19. Mr. LE BLANC (Franciscans International) said his organization strongly supported the draft declaration on the rights of human rights defenders and considered that any compromise on the principles it contained would diminish the rights already guaranteed to them under existing international instruments. Human rights defenders, and journalists who drew attention to human rights violations, were systematically persecuted and harassed in many countries, such as Mexico, Colombia and Peru. His organization recommended therefore that the Commission should approve the draft declaration and forward it, through the system, to the General Assembly for adoption on 10 December 1998. Agenda item 19 should be retained on the Commission's agenda in the modified form of "Implementation of the Declaration on Human Rights Defenders", and the Commission should consider the appointment a special rapporteur to monitor such implementation.

20. Mr. Chowdhury (Bangladesh), Vice-Chairman, took the Chair.

21. Mr. LAVASSANI (African Commission of Health and Human Rights Promoters), having welcomed the draft declaration's adoption by the Working Group after so many years of effort, remarked, with reference to article 9, paragraph 3 (a) of the text, that in many countries the right "to complain about the policies and actions of individual officials and governmental bodies with regard to violations of human rights and fundamental freedoms" was by no means assured, since the State was both the defendant and the judge. For that reason, his organization strongly supported proposals that individuals, groups and organs of society should be given the possibility to bring complaints before an impartial authority appointed by the United Nations.

22. Ms. ACOSTA (International Federation of Human Rights Leagues), also speaking on behalf of the World Organization against Torture, drew attention to a recent report of the Observatory for the Protection of Human Rights Defenders, a mechanism set up by the two organizations she was representing, which listed 148 cases of serious violations of the fundamental rights and freedoms of human rights defenders in 1997 alone. Among the numerous

countries mentioned in the report, she referred in particular to China, Tunisia and Mexico. In view of that alarming situation, she urged the Commission to approve the draft declaration and, with a view to ensuring its implementation and the strengthening of protection mechanisms, to appoint a special rapporteur for human rights defenders or, alternatively, to entrust that responsibility to the High Commissioner, on the understanding that the necessary funds would be made available.

23. Mrs. AGREBI (Tunisian Mothers' Association) said that human rights defenders had responsibilities and duties as well as rights. It was regrettable that certain NGOs sometimes indulged in disinformation and slander to serve political interests entirely unrelated to the cause of human rights. As a Tunisian mother, she was proud of her country's stability and its advanced social policies. Her association took an active part in the efforts initiated by the President of Tunisia and supported by the whole of civil society to eradicate poverty and create basic infrastructures in remote rural areas. The international associative movement should show greater solidarity between the NGOs of the South and the North and should focus on the struggle against all forms of violence and extremism.

24. Ms. AHMADI (Human Rights Internet) welcomed the completion of the draft declaration and noted with satisfaction that it was to be adopted in the year of the fiftieth anniversary of the Universal Declaration of Human Rights. In the interests of ensuring that the rights of human rights defenders were respected, her organization supported the proposal that a special rapporteur be appointed to report annually on the declaration's implementation. The protection of women engaged in the defence of human rights was of particular importance, as was the removal of physical, legal and social barriers preventing persons with disabilities and their associations from promoting and protecting their rights and fundamental freedoms.

25. Mr. Selebi (South Africa) resumed the Chair.

26. Mrs. BALNFORTH (World Movement of Mothers) said that, while the draft declaration was an admirable document on the whole, she had serious doubts about draft article 7, which would allow any individual or group unilaterally to declare the existence of a new human "right" without its being put to the test of international negotiation and consensus. No doubt unintentionally, draft article 7 would, undemocratically and indefensibly, give "new rights" formulators superior status and rights over citizens wishing to defend their traditional values and restraints.

27. If the draft article was retained, there was a risk of cheapening the protection offered to defenders of recognized rights, who would suffer if even one State declined because of it to become a party to the declaration. She therefore urged the Commission to consider the wisdom of reaffirming reservations to existing instruments by States.

28. Ms. RENGIFO (American Association of Jurists) said that human rights defenders were engaged in a dangerous activity: considered enemies of the State by many Governments, they had been murdered, tortured, imprisoned, exiled, disappeared and, in the case of women, sexually abused. Such

practices were not confined to authoritarian systems, such as that in Peru; Governments that prided themselves on being democratic, such as Mexico, Guatemala and Colombia, also practised brutal persecution.

29. She herself worked for the Asociación Nacional de Ayuda Solidaria in Colombia and, on the basis of secret testimony, she and others had been seized and several times imprisoned. One her colleague had disappeared and several others had been murdered. Continuing persecution had forced her organization to close some of its regional offices and she and a colleague had gone into exile.

30. Similar situations occurred in Guatemala, where in Chajul and Santiago de Atitlán alone 32 human rights defenders had been detained over the past year, and in Mexico, where criminal groups apparently connected with the security forces threatened and sexually abused members of human rights organizations.

31. The draft declaration was to be welcomed, although a State's obligations should not, as laid down in draft article 2, be restricted to those under its jurisdiction. Governments should implement the recommendations contained in the draft declaration. The Commission should also appoint a special rapporteur for cases as serious as that of Colombia, where the Government was avoiding its responsibilities.

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT, IN PARTICULAR:

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(d) QUESTION OF A DRAFT OPTIONAL PROTOCOL TO THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

(agenda item 8) (continued) (E/CN.4/1998/5, 32-35, 36/Rev.1, 37 and Add.1 and 2, 38 and Add.1 and 2, 39 and Add.1 and Add.3-5, 40 and Add.1 and 2, 41, 42 and Corr.1, 43, 44 and Add.1 and 2, 111, 129, 139 and 153; E/CN.4/1998/NGO/82 and 99; A/52/387)

32. Mr. HUSSAIN (Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression), introducing his report (E/CN.4/1998/40 and Adds.1 and 2), said that, over the past year, he had pursued his mandate by four main methods. In the first place, he had conducted a correspondence with States on complaints received of alleged violations of the right to freedom of opinion and expression. Secondly, he had worked through interaction and meetings with NGOs, which represented a social force advocating freedom of opinion and expression. Thirdly, he had made an effort to cooperate with other special rapporteurs on issues of common

interest in the conviction that they were all engaged on a common mission. Fourthly, he had made visits to Poland and Belarus in order to have a first-hand look at the extent to which those countries' domestic policies supported or contradicted the right to freedom of expression.

33. He had paid particular attention to three specific issues indicated by the Commission at its fifty-third session: the state of freedom of opinion and expression and the position of the media in the formerly socialist countries of Poland and Belarus; the impact of new information technology on the rights of freedom of opinion and expression; and women and freedom of expression.

34. Transition from one system of government to another was a lengthy and difficult task, as reflected in his reports on his visits to Poland and Belarus. While he commended the two Governments on their invitations and expressed his appreciation for the open and constructive exchange of views which had taken place, he hoped that they would pay appropriate attention to his recommendations and suggestions for improvement. For countries in such a transitional situation, freedom of opinion and expression called for radical transformation of State structures; laws, regulations and practices had to be brought into line with the country's international obligations. One way of curbing a tendency on the part of government bureaucracies to infringe on human rights was to encourage the existence of independent media, both electronic and print, where ownership was diversified with a minimum of State interference and a maximum of self-regulation. He also urged the Governments concerned to review not only the laws specifically intended to protect national security but also ordinary criminal laws which might be used to infringe the rights to freedom of opinion, expression and information.

35. The spectacular advances of the new information technologies were to be welcomed but their impact was highly complex. There was a debate over the use and abuse of such technologies by individual groups expressing and disseminating vulgar, racist and intolerant views. The problems were mostly self-inflicted and could be resolved: a balance had to be struck between rights and protection against misuse, but care should be taken not to introduce guidelines for the wholesale control of such media. The new information technology was inherently democratic, but more detailed work was needed to counter its negative trends and enhance its power to enlighten and educate.

36. As long as women continued to be treated as inferior in many parts of the world, freedom of opinion and expression remained at best a farce for them. Violence against women was not a disease in itself, but a symptom of the general malady which assigned them a lower status. Women's empowerment in political life was one of the surest ways of rapidly redressing the injustice they were suffering. He hoped to prepare a report on the specific issue of violence against women, jointly with the Special Rapporteur on violence against women, for submission to the Commission at its next session.

37. He intended to select three countries, one in each of the continents of Asia, Africa and Latin America, for an in-depth study of the progress being

made and the difficulties encountered in the realization of freedom of opinion and expression and, he would continue to follow up vigorously all allegations of violations of freedom of opinion and expression.

38. Ms. MAZAI (Belarus), having thanked the Special Rapporteur for the report on his mission to Belarus (E/CN.4/1998/40/Add.1), said that there had been a constructive exchange of views and the Special Rapporteur had made an objective assessment of her country's economic difficulties and the resultant problems for the mass media. He had, nevertheless, made the common mistake of confusing the political and legal concept of freedom of speech with the primarily economic notion of the level of development of the mass media. The Constitution and laws of Belarus guaranteed the right to freedom of opinion and expression, and that was confirmed on a daily basis in the work of the mass media.

39. The report repeatedly referred to what it called excessive State control of the mass media but, of the 1,041 periodicals registered in Belarus on 1 March 1998, State funding was received by only 43, some of which were State-owned and others private. State support went primarily to publications in the Belarusian language. There were 112 State and 117 non-State printing houses and only 54 of the 228 publishing houses were State-owned.

40. The Special Rapporteur's opinion that the State Committee on the Press lacked independence in registering the print media was not true. There had not been a single case of a print medium being prevented from registering. The report's assertion that journalists refrained from expressing critical views because of a fear of warnings and other sanctions from State bodies was totally unacceptable. A wide range of opinions was to be found in the daily newspapers, and newspapers received warnings only when they had published deliberately distorted information and defamation and all such warnings could be challenged in the courts.

41. Her Government in no way prevented the free dissemination of information by the print and electronic media, but it should be pointed out that all the mass media, whether State-owned or not were commercial, profit-making enterprises. Most of the claims by the organs of control against the mass media concerned violations of financial discipline, although such fully justified claims were often interpreted as State pressure and a violation of freedom of speech.

42. Article 40 of the Law on the Press regulated the duties, of journalists and thus quite naturally referred to the need for them to present objective information, since freedom to disseminate information was not freedom to disseminate deliberately false information. It was also necessary to point out that the Union between Belarus and Russia, referred to in paragraph 8 of the report, was not a confederation; under the Treaty each member State preserved its sovereignty, independence and territorial integrity and, from the legal point of view, the Union was an international organization.

43. There was always of course need and room for improvement, and amendments to the Law on the Press were under consideration and other matters were being discussed with the Organization for Security and Cooperation in Europe (OSCE). Her Government, which fully agreed with the statement in paragraph 27 of the

report that the mass media were a basic component of freedom of expression and an indispensable element in the development of democracy, would do everything necessary to bring its legislation and law enforcement in the area into line with international standards.

44. Mr. JOINET (Member of the Working Group on Arbitrary Detention), presenting the Working group's report (E/CN.4/1998/44 and Add.1 and 2), said that, having taken account of the debate in the Commission at its fifty-third session, the Working Group had decided to refer to its conclusions on individual cases as "opinions" rather than "decisions" and would henceforth request Governments to reply within 90 days of having carried out inquiries concerning communications. The Working Group had begun work on the situation of immigrants and asylum-seekers, whose detention might well be considered arbitrary; it was a difficult question which concerned all countries, including the most developed countries.

45. The Working Group's visit to Peru had had to be deferred until January 1998, so its corresponding report had not yet been published. The Working Group had been able to see the prison establishments and prisoners of its choice in the circumstances of its choosing, and the director of each establishment had received written instructions from the Peruvian authorities requesting total cooperation with the Working Group. There had also been excellent cooperation with the NGOs, whose coordination should serve as an example for others.

46. There were two positive aspects to the situation in Peru. The Government had abolished the system of "faceless judges", and had established the Ad Hoc Commission for Pardons, which had secured the release of 360 persons whose innocence had been established. There were, however, some negative aspects, such as the law on repenters and the discussion regarding the right of temporary magistrates to guaranteed tenure. Finally, there were difficulties, not unique to Peru, with respect to the system of military justice and its compatibility with the provisions of the International Covenant on Civil and Political Rights.

47. With respect to the Working Group's report on its visit to the People's Republic of China (E/CN.4/1998/44/Add.2), he said that a preparatory visit had enabled it to come to an agreement with the authorities regarding its working methods which had been fully respected. The difficulties experienced during the visit itself had come from local rather than the central authorities. The directors of some places of detention had clearly not been expecting the visit, and the Working Group had had to be accompanied by a very senior functionary of the central administration whose task was to convince the local authorities to respect the undertaking which had been entered into.

48. While the Working Group's general conclusion was that some progress had been made in the human rights situation in China, it was too soon to know whether the reforms had been implemented effectively. The Working Group had expressed its strong belief that measures of re-education through labour applied to persons who had disturbed public order by peacefully exercising the fundamental freedoms guaranteed by the Universal Declaration of Human Rights, would clearly be arbitrary. It had been careful to not state in its report that re-education through labour was an acceptable form of detention, although

it had observed that its application to common-law offenders might not be arbitrary. To remove all doubts and misgivings, the law should state categorically that re-education through labour must not be applied to persons exercising their fundamental freedoms. Since re-education through labour was an administrative measure, recourse proceedings could be brought before the people's court under the Administrative Procedure Law, but that possibility had the particular disadvantage of the involvement of the judge a posteriori.

49. It was difficult to meet dissidents in China, especially when the mission's term of reference ruled out the possibility of meeting them clandestinely. When the Working Group had visited Drapchi prison at Lhasa, Tibet, one of the prisoners had shouted "long live the Dalai Lama". The Working Group had spoken to that prisoner and had afterwards sought and received guarantees that he would not be ill-treated as a result. On 20 March 1998, however, the Working Group had received an allegation from an NGO that the prisoner concerned had been subjected to ill-treatment. The Working Group had immediately addressed an urgent appeal to the Chinese Government and, on 2 April 1998, had received a long reply denying the allegation. Efforts would be made to establish the evidence for the allegation, but the Working Group itself did not possess investigative powers.

50. Mr. SIMAS MAGALHAES (Brazil) said that, although the submission of reports to the Committee against Torture played a major role in monitoring compliance with the Convention, the Committee's effectiveness would be much enhanced if it were to pay fact-finding visits to the States parties, as proposed in the draft optional protocol. His delegation's understanding was that, by ratification of or accession to the optional protocol, States parties would consent to be visited without warning. Its understanding was also that the mandate of the Special Rapporteur on the question of torture also covered cases of corporal punishment resulting from legal provisions or executive decrees.

51. Under the Constitution of Brazil, torture was a heinous crime not subject to bail or to the statute of limitations. In addition, a law imposing heavy penalties for those committing torture had been enacted in 1997. With regard to detention, the National Action Plan on Human Rights provided for several activities that were being implemented by the Federal Government together with the state governments and other bodies, and the overpopulation of prisons had led his Government to earmark significant resources to build new detention centres.

52. He noted that the Working Group on Enforced or Involuntary Disappearances considered that the "old cases" concerning Brazil had been clarified, following the 1995 law which recognized as having died those persons who had disappeared in connection with political activities during 1961-1979 and assured financial compensation for their families. No compensation could be commensurate with the injuries caused, but his Government considered a reparation policy to be a moral obligation.

53. The implementation of international standards relating to the issues under the agenda item hinged not only on the political will of those in power at the domestic level but also on international cooperation, especially in training judges, police officers and other law-enforcement officials.

54. Mr. HOLST (Denmark) said that there was an urgent need for practical action to help prevent the direct or indirect involvement of health professionals in the practice of torture. United Nations instruments relating to torture had consistently called for special education for the health professions, among others, concerning standards in international human rights instruments and humanitarian law. The United Nations Decade for Human Rights Education 1995-2005 aimed to build and strengthen programmes and capacities for human rights education at the international, regional, national and local levels, yet, although the technical cooperation programme in the field of human rights was developing training material for a number of specific target groups, health professionals had not been included.

55. His delegation noted with satisfaction a large number of international, national and local educational initiatives aimed at creating a greater awareness among health professionals. The global network of rehabilitation centres for victims of torture provided a rich source of knowledge about the physical, psychological and social consequences of torture. The World Confederation for Physical Therapy had decided to include the physical aspects of torture in the training of physiotherapists and the Medical Council of India had proposed a comprehensive training programme concerning the medical aspects of torture.

56. His delegation was in favour of the establishment of an inter-agency task force to make proposals for international, regional and national action on training to implement the intentions set out in the various declarations, preferably before the end of the Decade. It also attached great importance to the connection between human rights and forensic medicine.

57. Mr. CHAVEZ (Peru) said that, in a spirit of cooperation, his Government had welcomed the visit of the Special Rapporteur on the independence of judges and lawyers as an opportunity to show the progress that had been made and to assess the remaining difficulties. The Special Rapporteur's report (E/CN.4/1998/39/Add.1) had thus been disappointing in several respects. It had been two years in the gestation; and the efforts made to bring it up to date, with references to recent developments such as the abolition of "faceless" courts, statistics on the considerable number of people released by the Ad Hoc Commission for Pardons and the significant rise in judges' salaries, were clumsy. Moreover, although the Special Rapporteur had had all the necessary facilities to carry out his mission, he had relied wholly on his conversations with others and not at all on his personal observation. Although he had promised to give the Government the opportunity to comment on the content of his report, he had not done so. Meanwhile, debate on the report had been based on his preliminary observations, as contained in a press statement, as though they were his conclusions.

58. More seriously, the report lacked conceptual clarity in analysing the nature of the terrorist violence suffered by Peru until a few years previously. No balanced assessment of the law-reform process could ignore that factor. For example, to say that the Shining Path (Sendero Luminoso) was "affiliated with the Peruvian Communist Party (PCP)" (para. 14), or to call terrorists "armed opposition groups" (para. 65), ignored the fact that the terrorists had no truck with political parties. Among other errors and omissions, it was regrettable that the Special Rapporteur had shown so little

interest in the hostage-taking at the Japanese Embassy, which the Commission on Human Rights had itself condemned. In paragraph 28, he asserted that there was no evidence that Judge Carlos Giusti had been taken hostage because of his judicial function and insinuated that the Judge had been singled out in the shooting incident for certain of his past decisions which were not favourable to the executive. The statements were both untrue and insulting.

59. The worst aspect of the report was that it did not reflect the actual situation of the administration of justice in Peru and did not acknowledge the progress made since 1992. The Government had, for example, recognized that some injustices had arisen from its anti-terrorist legislation, but they were marginal deficiencies which did not call into question the system's basic efficacy in combating terrorism. Moreover, it had always stressed that the legislation was temporary.

60. In that context it had done away with the "faceless" courts, established the Ad Hoc Commission for Pardons and had recently adopted legislation against torture, enforced disappearances and genocide. It cooperated with international bodies and had recently played host to two working groups of the Commission, a special representative of the Secretary-General and a special rapporteur.

61. His Government saw the improvement of the administration of justice as a priority and had committed substantial resources thereto. It enjoyed valuable support from friendly countries and international organizations. Cooperation involved not only financial contributions but the exchange of ideas and experiences and joint training. Only thus could problems be solved in a climate of trust.

STATEMENT BY THE VICE-MINISTER FOR FOREIGN AFFAIRS OF CHILE

62. Mr. FERNANDEZ (Chile), having expressed his Government's wholehearted commitment to the principles of the Universal Declaration of Human Rights, paid a special tribute to the illustrious Chilean diplomat, Mr. Hernán Santa Cruz, who had been one of the Declaration's original drafters. His Government was profoundly grateful to the Commission for its role in denouncing the serious human rights violations that had marked Chile's recent history and in the efforts it had made to re-establish the full enjoyment of human rights there. Human rights constituted an essential component of Chile's return to democracy, special emphasis being placed on economic, social and cultural rights and indigenous issues. It would be recalled that the second workshop on a permanent forum for indigenous people within the United Nations system had been held in his country's capital in the summer of 1997.

63. At the international level, Chile had made progress with regard to the ratification of international human rights instruments and had withdrawn the reservations which the military dictatorship had formulated in respect of many of those instruments and which had been incompatible with their object and purpose. Once ratified, such instruments acquired constitutional status giving them precedence over domestic law.

64. Stressing the importance of cooperation at both the international and the bilateral level in promoting human rights with a view to the consolidation of ongoing processes of transition to democracy, he remarked that the drafting of a declaration on the right and responsibility of individuals, groups and organs of society to promote and protect universally recognized human rights and fundamental freedoms was perhaps the most important development in the human rights field in the current anniversary year.

65. The right to development was another topic to which his Government attached the greatest importance, and he expressed the hope that negotiations under that heading would be conducted in a flexible and constructive spirit eschewing confrontation. It was important to preserve the Commission's central and irreplaceable role in the human rights field and to avoid using it as a forum for political arguments which could only have a negative effect on its credibility.

The meeting rose at 1 p.m.

Annex

List of non-governmental organizations supporting the statement by the International Service for Human Rights

ACAT, Mexico

AFRONET - Nigeria

Amnesty International

Asian Cultural Forum on Development

Association for the Prevention of Torture

AZADHO, Kinshasa

Baha'i International Community

Colombian Commission of Jurists

Dominicans International

Food First Information and Action Network (FIAN)

Franciscans International

Human Rights Watch

International Commission of Jurists

International Federation of ACAT (Action of Christians for the Abolition of Torture)

International Human Rights Law Group

International Indian Treaty Council

International Movement against All forms of Discrimination and Racism

Latin American and Caribbean Committee for the Defence of Women's Rights (CLADEM)

Latin American Federation of Associations of Relatives of Disappeared Detainees

Lawyers Committee for Human Rights

Movement against Racism and for Friendship among Peoples

Pax Christi International

South Asia Human Rights Documentation Centre (SAHRDC)

Women's International League for Peace and Freedom

Al-Haq, Palestine

Association de lutte contre les violences faites aux femmes (ALVF), Cameroon

Australian Council for Overseas Aid (ACFOA), Canberra

Australian Forum of Human Rights Organisations, Canberra

Centro de Derechos Humanos H. Miguel Agustin Pro, Mexico

Chin National Council

Colectivo de abogados "José Alvear Restrepo", Bogatá

Commisión Mexicana de Defensa y Promocion de los Derechos Humanos

Cordonacion Libertad, Colombia

Danish United Nations Association

Defensoría Maya - COPMAGUA

East Timor Human Rights Centre, Melbourne

European Law Students' Association, Fribourg

FEDEFAM, Mexico

Formosan Association for Public Affairs

Forum Menschenrechte, Deutschland

GRINSO, Nepal

HAGURUKA, Rwanda

Human Rights in China, New York

Human Rights Internet

INSEC, Nepal

International Federation of Human Rights Leagues

L'Association Turquie pour Droits de l'homme

Liga Mexicana por la Defensa de los Derechos Humanos

Medical Professional Alliance in Taiwan

Min Byun, Lawyers for a Democratic Society, Seoul

MOSOP, Nigeria

Movement for Human Rights, Lebanon

Red Nacional de Organizaciones Civiles de Derechos Humanos, Mexico (and its 49 member organizations)

Tibetan Centre for Human Rights and Democracy

Tonga Pro-Democracy Movement

Toronto Association for Democracy in China

Unrepresented Peoples' Organisation (UNPO), The Hague

World Organization against Torture.

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